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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,606	10/27/2003	Wolfgang Drahm		6460

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EXAMINER

BELLAMY, TAMIKO D

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SM

Office Action Summary

Application No.

10/693,606

Applicant(s)

DRAHM ET AL

Examiner

Tamiko D. Bellamy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 18, 20 and 21 is/are rejected.
- 7) ☒ Claim(s) 13-17 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Amendment dated 2/17/05 has been received and entered. Claims 11-21 are currently pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11, 12, 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckert (5,664,456)

Re claims 11 and 21, as depicted in fig. 1, Eckert discloses a sensor (e.g., ultrasonic transducer 2) wherein ultrasonic pulses emitted by the ultrasonic transducer are reflected at the surface of the filling material (Col. 1, lines 9-14). Eckert also discloses an electronics case (e.g., housing 1) coupled to the sensor (e.g., ultrasonic transducer 2) via way of a vibration absorber (e.g., damping layer 6). As depicted in fig. 1, Eckert discloses the electronics case (e.g., housing 1) is at least intermittently subjected to vibrations generated in or transmitted via the sensor (2). As depicted in fig. 1, Eckert discloses that the vibration absorber (e.g., damping layer 6) is affixed to a wall of the electronic case (e.g., housing 1). While, Eckert does not specifically discloses that vibration absorber (e.g., damping layer 6) is vibrated intermittently in order to dissipate the vibration energy taken into the electronics case, Eckert specifically states (See Col. 6, lines 28-33) that the vibration absorber (e.g., damping layer 6) serves the **purpose of**

minimizing the radiation of sound energy in the radial direction and in the direction away from the diaphragm. Eckert also discloses that the distance between the sensor (2) and the electronic housing (e.g., housing 1) is 5 mm such that the oscillation behavior of the sensor (2) is not disturbed by the mechanical coupling to the electronic case (e.g., housing 1) (col. 6, lines 17-20). This teaching clearly infers and/or suggests that the vibration absorber is vibrated intermittently to dissipate the vibrational energy taken into the electronic housing. Therefore, to employ Eckert on a vibration absorber that is vibrated intermittently in order to dissipate the vibration energy taken into the electronics case one would have been obvious to one of ordinary skill in the art at the time of the invention since this reference explicitly teaches its use on a ultrasonic transducer for determining the filling level which includes vibration absorber between the wall of the casing and the sensor.

Re claim 12, as depicted in fig. 1, Eckert discloses that vibration absorber (e.g., damping layer 6) is positioned at a distance between the electronic case (e.g., housing 1) and the sensor (6). While Eckert discloses not specifically discloses that the vibration absorber is positioned at a distance, as far as possible, from a joint between the sensor and the electronic case, the court held in, In re Japikes, 86 USPQ 70 (CCPA 1950), that no invention in shifting the location of parts, since the operation of the device would not be modified. Therefore, to employ Eckert on a vibration absorber that is vibration absorber is positioned at a distance, as far as possible, from a joint between the sensor and the electronic case would have been obvious to one of ordinary skill in the art at the time of the invention since this reference explicitly teaches its use on a ultrasonic

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transducer for determining the filling level which includes vibration absorber between the wall of the casing and the sensor.

Re claim 18, as depicted in fig. 1, Eckert discloses that the vibration absorber (e.g., damping layer 6) is disposed within the electronics case (e.g., housing 1).

Re claim 20, as depicted in fig. 1, Eckert discloses the vibration absorber (e.g., damping layer 6) comprises a plastic body (Col. 6, line 28) affixed to the wall of the electronics case (e.g., housing 1).

Response to Argument

4. Applicant's arguments with respect to claims 11, 12, and 18 have been considered but are moot in view of the new ground(s) of rejection. It is the examiners position that claims 11, 12, 18, 20, and 21 are not patentable in view of the newly applied art Eckert (5,664,456).

Allowable Subject Matter

5. Claims 13-17, and 19 are objected to as being dependent upon a rejected base claim 11, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamiko D. Bellamy whose telephone number is (571) 272-2190. The examiner can normally be reached on Monday - Friday 6:30 AM to 3:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tamiko Bellamy

T.B.

April 26, 2005


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
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